

Exhibit 1

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF MICHIGAN

3 SOUTHERN DIVISION

4

5 -----) Civil Action No.:

6 IN RE: FLINT WATER CASES) 5:16-cv-10444-JEL-MKM

7) (consolidated)

8)

9) Hon. Judith E. Levy

10) Mag. Mona K. Majzoub

11

12 HIGHLY CONFIDENTIAL

13 VIDEOTAPED DEPOSITION OF MARC EDWARDS, PH.D.

14

15 FRIDAY, AUGUST 7, 2020

16 Volume 1

17

18 Remote oral deposition of MARC EDWARDS, PH.D.,

19 conducted at the location of the witness in

20 Blacksburg, Virginia, commencing at approximately 9:06

21 a.m., on the above date, before JULIANA F. ZAJICEK, a

22 Registered Professional Reporter, Certified Shorthand

23 Reporter, Certified Realtime Reporter and Notary

24 Public.

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1 from people and I've -- I've told everyone I'm not a
2 party to this lawsuit.

3 Q. Understood. You are not a party. You are
4 here purely as a fact witness.

5 Do you understand that, Dr. Edwards?

6 A. Yes.

7 Q. Okay. And have you talked to anybody that
8 you understood to be a representative of Veolia North
9 America with regard to Flint water matters --

10 A. Ever.

11 Q. -- whether it's counsel -- yes, sir.

12 A. Yes, I did.

13 Q. And who did you speak to that you
14 understood to be a representative of Veolia?

15 A. I don't remember.

16 Q. When did that communication take place?

17 A. I don't remember.

18 Q. And did you exchange e-mails with the
19 Veolia person you communicated with?

20 A. I don't remember.

21 Q. Can you provide us the approximate
22 timeframe of these communications?

23 A. It was a long time ago.

24 Q. Okay. Have you talked to anybody you

1 And your answer was: "Yes."

2 Do you remember that question and answer?

3 A. Yes.

4 Q. That's true, isn't it, from your
5 perspective?

6 A. I believe --

7 MR. CAVANAGH: Object to foundation, Cavanagh.

8 BY THE WITNESS:

9 A. I believe it to be true, yes.

10 BY MR. CAMPBELL:

11 Q. Okay. So going back to the Lead and
12 Copper law, the whole purpose of that law is a health
13 protective one, is it not?

14 MR. REY: Objection; foundation. Rey.

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. CAMPBELL:

18 Q. So the whole intent and purpose of the
19 Lead and Copper law is to -- to minimize the exposure
20 of end users of drinking water, correct?

21 MR. REY: Objection; foundation.

22 BY THE WITNESS:

23 A. Yes, within constraints.

24 BY MR. CAMPBELL:

1 Q. Okay. The -- the target of the law in
2 terms of protection is the end user of the drinking
3 water, correct?

4 A. Yes.

5 Q. And the -- and the way that the lead and
6 copper law operates is to focus in on the quality and
7 content of the drinking water at the end user's tap,
8 correct?

9 A. Yes.

10 Q. And -- and throughout this litigation we
11 have heard from the MDEQ over and over again, and to a
12 certain extent maybe even from the City of Flint
13 officials, that the drinking water at the Flint Water
14 Treatment Plant, at the exit portal of that plant, was
15 free of any significant lead or copper contamination,
16 and they have expressed that as a justification for
17 their compliance with the Lead and Copper law.

18 But that would be wrong headed, wouldn't
19 it?

20 (Simultaneous talking.)

21 MR. PATTWELL: Objection to the form,
22 foundation. Misstates evidence.

23 MS. JACKSON: Objection; Jackson.

24 BY THE WITNESS:

1 A. Assuming that argument was made, which I
2 also heard over the years, it seems to be highly
3 misleading to me.

4 BY MR. CAMPBELL:

5 Q. So, with the City of Flint, there was the
6 Flint Water Treatment Plant that after April of 2014
7 began utilizing raw water from the Flint River, it --
8 it treated that water in some fashion but -- but
9 without any optimized corrosion control treatment, and
10 then it discharged that water through a distribution
11 system that ultimately would deliver the water to the
12 end user's tap.

13 You understand that concept of a
14 distribution system, don't you, sir?

15 A. Yes.

16 Q. And the distribution system is made up of
17 water mains, large and small, service lines that run
18 from the so-called corp, c-o-r-p, stop at the water
19 main to the curb stop under the sidewalk or at the
20 property line for the premise owner. And then
21 another -- another service line from the curb stop
22 into the resident's home or structure.

23 Do you understand that sort of layout of a
24 distribution system?

1 A. Yes.

2 Q. The treatment of drinking water for the
3 purpose of minimizing exposure of end users to lead
4 and copper is done with the realization that some
5 parts of the distribution system are owned by the
6 public water supply and some parts are owned by the
7 end user, correct?

8 A. Yes.

9 Q. It really doesn't matter, does it, who
10 owns the portion of the distribution system if the end
11 goal is to minimize the exposure of the end user to
12 lead and copper in water that's in the system, does
13 it?

14 MR. CAVANAGH: Object to form and to the extent
15 that it calls for a legal conclusion. Cavanagh.

16 BY THE WITNESS:

17 A. In a practical sense in terms of the
18 health harm done, it doesn't matter where the lead
19 comes from, no.

20 BY MR. CAMPBELL:

21 Q. Okay. Let's just move on to Page 57 and
22 58 of Exhibit 20, please.

23 And on Page 57 you were asked this
24 question:

1 know who retained LAN to do work in the City of Flint,
2 do you?

3 A. No.

4 Q. I'll represent to you that the City of
5 Flint actually retained LAN to do work on the Flint
6 Water Treatment Plant from 2013 to 2015.

7 Fair enough?

8 A. Fair enough.

9 Q. Okay. And so as you are talking about
10 ethical responsibilities on that end, if I'm hearing
11 you correctly, if LAN -- LAN had learned of something
12 that was concerning to it, it had a duty to raise that
13 to its client, correct?

14 A. Yes.

15 Q. And that could be outside the scope of its
16 work, correct?

17 A. Yes, yes.

18 Q. And so LAN would, at least with regard to
19 learning of a problem in the City of Flint, their
20 ethical responsibility would only be to go to the City
21 itself, correct?

22 MR. CAVANAGH: Object to the extent --

23 BY THE WITNESS:

24 A. That -- that would be, under the code of

1 ethics that would be correct.

2 BY MR. GAMBLE:

3 Q. You -- you've -- have you heard any --

4 well, strike that.

5 Do you -- I take it from your lack of
6 understanding of LAN that you don't recall ever having
7 any communications with anyone from LAN?

8 A. No.

9 Q. And I think before you testified, you're
10 a -- you're not a licensed professional engineer, is
11 that correct?

12 A. No, I'm not.

13 Q. And you're -- you're not a design
14 engineer, right?

15 A. No.

16 Q. And you've never sealed any designs for a
17 water treatment plant or any other facility?

18 A. No.

19 Q. And it's fair to say that you don't have
20 an understanding as to what LAN did or did not do in
21 Flint during its work from 2013 to 2015?

22 A. I mean, I don't know what the scope was.

23 I read that report. And the report was online in
24 2015, so I -- I know what they did under that report

1 Q. And it is a -- at least the top e-mail is
2 from you to Mr. Croft, copied to Mr. Glasgow, and your
3 first sentence says:

4 "Excellent. I know you have been doing
5 the best you can under circumstances I can only
6 imagine."

7 We've talked about this to some extent,
8 but can you elaborate to some extent about why you --
9 you think the circumstances facing the water plant --
10 treatment plant from the people of the City of Flint
11 were -- were, as you say, beyond imagination or I can
12 only imagine?

13 A. Yeah, the -- I said September 15th, 2015,
14 and I'll say it again today, the decision to switch to
15 that water supply source with a -- without corrosion
16 control was just an epically bad decision. The water
17 was -- coming out of that plant was just impossible to
18 treat in terms of just things like chlorine, so you
19 had a whack-a-mole situation where you do something to
20 fix this and something else would fix that.

21 The water as it existed could not possibly
22 meet all EPA federal regulations, and so here these
23 people are trying to operate this treatment plant
24 without this very specialized knowledge, and it's --

1 it's impossible. It was -- it was impossible without
2 corrosion control to meet all of the federal
3 regulations. On top of that you had the consumer
4 complaints which were all legitimate too. So it had
5 to be a horrible, horrible situation for these
6 individuals.

7 Q. Okay. So, I -- I want to clarify a couple
8 of things.

9 One, just to be clear, when you say it was
10 impossible, do you mean it was impossible without
11 corrosion control?

12 A. Right.

13 Q. Had corrosion control been used, the --
14 the Flint River could have been treated to be a --
15 a -- a safe or at least compliant with regulations
16 water source, is that correct?

17 A. It's quite likely they could have met all
18 of the regulations, yes.

19 Q. And you -- you do understand that it was
20 the DEQ that made the decision to go without corrosion
21 control, correct?

22 MR. CAVANAGH: Object to foundation.

23 BY THE WITNESS:

24 A. Yeah, I have no idea who -- who decided

1 and then declined even further as filters were widely
2 installed. This means that Flint children were
3 exposed to extreme lead levels for only a short time
4 and probably weren't seriously affected, which in turn
5 should reduce stress levels amongst Flint parents
6 about how much the lead crisis affected their kids."

7 I -- I -- I read that correctly?

8 A. Yes.

9 Q. Is that your analysis or Mr. Drum's?

10 A. That's Mr. Drum's, but I would agree with
11 it, contrary to my initial beliefs about what
12 happened. It's completely consistent with the blood
13 lead data and it's really hard to argue otherwise.

14 Q. Okay. And -- and in -- in your opinion to
15 begin to draw any conclusions about the health effects
16 of lead, you would need to have individualized data
17 about both the level and duration of exposure?

18 A. Yes. Yeah, I mean, it's -- yeah, you
19 would. And, again, the -- the blood lead elevations
20 of the children which were taken in real-time were not
21 as bad as people initially feared they were. So
22 obviously you have a few cases where children's blood
23 lead was elevated above 5, the new CDC standard, and
24 you have excess exposure to lead, but in the grand

1 scheme of things that lead exposure historically was
2 not as bad as initially feared.

3 Q. And so along the same vein, I'll ask you
4 to consider two hypotheticals, one is a -- a child,
5 but it could be a person, a child is exposed for, say,
6 14 days to the lead water, to -- to the Flint water
7 during a high lead period, the other child is exposed
8 for the entire 18-month duration of the river was in
9 use.

10 Would -- would -- would you expect the
11 same effects on those two children?

12 A. No, I wouldn't, because there is always
13 genetic differences, there is always susceptibility
14 differences, so even if they got the same lead dose
15 you would expect different effects, but the dose also
16 makes the poison, so the more lead you are -- you are
17 exposed to the worse the effects should be across the
18 population.

19 So obviously if you got more lead, that's
20 worse than getting less lead. None of it is good.
21 But dose makes the poison. It is a famous axiom
22 that's stood for a couple of centuries, so.

23 Q. And -- and implicit in dose is duration?
24 A. Yes.

1 Q. Moving on to the MDEQ personnel, and it's
2 now known as EGLE, but I'll just call it MDEQ for
3 simplicity sake.

4 On one of your web pages you thought that
5 certain resignations of DEQ officials were justified.

6 Do you think that there is other MDEQ
7 employees or officials who should have resigned
8 following the Flint water crisis?

9 A. Yeah, I mean this is obviously areas of
10 opinion, but I -- I think I documented on the website
11 sort of the problems that certain MDEQ people had in
12 dealing with Flint residents, how they treated Flint
13 residents, the term today was "indifference," "callous"
14 disregard," their covering up of the problem, their
15 blaming everyone but themselves. I don't see how
16 individuals like that can be allowed to continue in
17 public service and why some deal was made with them to
18 get them off the hook I -- just boggles the mind to
19 me. I mean, I don't get it.

20 Q. By "off the hook," do you mean the
21 criminal prosecutions?

22 A. Yeah, the plea deals and now the --
23 apparently it is expunged from their records and some
24 of them are back at work, so. What are you going to

1 do.

2 Q. Dr. Edwards, you've testified on
3 February 3rd and March 15th of 2016 in front of the
4 United States Congress, is that correct?

5 A. Yes.

6 Q. And I'm just going to paraphrase your
7 testimony there, is that you put the primary blame for
8 the Flint water crisis on a few people at the MDEQ.

9 Is that still true today?

10 A. On the basis of all of the evidence that I
11 have read and/or produced, that's still true today,
12 plus EPA for creating the culture in which this was
13 allowed to occur. It would not have happened without
14 both of those elements.

15 Q. And you also testified, I'm paraphrasing
16 you here, is that the MDEQ covered this up and lied to
17 the EPA.

18 In the four years or so that have passed
19 since your testimony, is that still true today in your
20 opinion?

21 A. Yes.

22 Q. In your March 15th, '16 testimony, you
23 described Susan Hedman -- Hedman as the top policeman
24 in Region 5.

1 UNITED STATES DISTRICT COURT

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3 SOUTHERN DIVISION

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13 VIDEOTAPED DEPOSITION OF MARC EDWARDS, PH.D.

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15 MONDAY, AUGUST 10, 2020

16 Volume 2

17

18 Continued remote oral deposition of MARC
19 EDWARDS, PH.D., conducted at the location of the witness
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23 MR. ROBERT MARTIGNETTI,
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24

1 how it would work.

2 BY MS. JACKSON:

3 Q. Okay. Do you believe that these were
4 normal circumstances?

5 A. No.

6 Q. Okay. What was abnormal about them?

7 A. The whole concept of bringing a new
8 surface water source online quickly while -- while the
9 system is being run by the State and in a plant that
10 hadn't been used for, frankly, for decades, without
11 having enough trained people or thought going into the
12 process, including testing for corrosivity or
13 considering corrosivity.

14 Q. Do you know whether the Michigan
15 Department of Environmental Quality prohibited the
16 City of Flint from implementing the use of
17 orthophosphates for corrosion control?

18 A. No, I'm not aware of the details of the
19 conversation.

20 Q. You've testified, and correct me if I'm
21 wrong, that the failure to implement corrosion control
22 or use orthophosphates for corrosion control was
23 illegal, is that correct?

24 A. That is the simplified way I used to

1 describe the fact that I don't feel the regulation or
2 law was being followed.

3 Q. Okay. And specifically what parts of the
4 law or regulation were not being followed?

5 A. The failure to have a corrosion control
6 plan with the -- with optimal water quality parameters
7 specified in terms of pH alkalinity and/or specific
8 dosages of orthophosphate that would prevent a lead
9 corrosion and other corrosion problems.

10 Q. I believe you were earlier shown an e-mail
11 where you estimated it was approximately \$100 a day to
12 add those orthophosphates.

13 Is that a correct statement?

14 A. That was the chemical cost, yeah, and
15 again --

16 Q. And you --

17 I'm sorry. Go ahead.

18 A. My -- my wording there was to a group of
19 other experts who, you know, in the grand scheme of
20 things this is not that difficult, but it's -- it's
21 not as easy as I portrayed it in the e-mail.

22 Q. And are you aware that the Flint Water
23 Treatment Plant does not have the structure in place
24 or the -- it doesn't have the equipment to add